

LISA KAY BAUGHMAN
State Bar No.: 134946
1202 Kettner Blvd., Suite 6200
San Diego, CA 92101
(619) 696-9311
(619) 696-3993 fax

Attorney for Defendant
Miguel Angel Avila-Quezada

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

United States of America,) Case No.: 08-CR-2023-W
v.)
Plaintiff,) RESPONSE IN OPPOSITION TO MOTION
MIGUEL ANGLE AVILA-QUEZADA,) FOR FINGERPRINT EXEMPLARS
Defendant.)

Defendant, Miguel Angel Avila-Quezada, by and through his attorney, Lisa Kay Baughman, files this response and opposition to the United States' motion to compel fingerprint exemplars. This opposition is based upon the records of the case and the attached memorandum of points and authorities.

I.

STATEMENT OF FACTS.

On April 23, 2008, Border Patrol Agents Barr and Sivilli responded to a seismic intrusion device in an area approximately twelve miles north Tecate, California Port of Entry. Their investigation led them to a trailer in a compound on private property occupied by six individuals, including Mr. Avila-Quezada. The agents looked through the trailer windows and saw Hispanic men inside. Acting without a warrant, the agents opened the trailer door and told the men to come outside. When questioned, Mr. Avila-Quezada admitted to being a citizen of Mexico. Mr.

1 Avila-Quezada was then handcuffed and taken to a station where he was fingerprinted for further
2 investigation.

3 The U.S. filed a complaint against Mr. Avila-Quezada for violating 8 U.S.C. 1326
4 alleging Mr. Avila-Quezada is an alien, previously deported was found within the territory of the
5 United States. Mr. Avila-Quezada's fingerprints lead the U.S. to discover his immigration and
6 criminal history.

7 **II.**

8 **THE UNITED STATES IS ALREADY IN POSSESSION
9 OF MR. AVILA-QUEZADA'S FINGERPRINTS.**

10 Prior to Mr. Avila-Quezada's arrest his fingerprints were taken. The United States, in
11 their motion to compel fingerprint exemplars, provides no reason why a second set of
12 fingerprints are now necessary. The Government has not established a reason for why
13 fingerprinting is again necessary. Ordering Mr. Avila-Quezada to submit to a second round of
14 fingerprinting is unnecessary and burdensome. Therefore, barring justification of the necessity
15 for additional fingerprinting, the Defendant objects to further submission of fingerprinting.

16 Furthermore, if this Court is inclined to grant the Government's motion the defense
17 respectfully requests a ruling be deferred until the defense can be heard on its anticipated and
18 pending motion to suppress.

19 **III.**

20 **CONCLUSION.**

21 Based upon the above, Mr. Avila-Quezada respectfully requests the Court deny the
22 Government's motion to compel additional, unnecessary fingerprints.

23 Date: July 14, 2008.

24 /s Lisa Kay Baughman
25 LISA KAY BAUGHMAN
26 Attorney for Defendant
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IT IS HEREBY CERTIFIED THAT:

I, LISA KAY BAUGHMAN, am a citizen of the United States, and I am at least eighteen years of age. My business address is 1202 Kettner Blvd., Suite 6200, San Diego, California 92101. I am not a party to the above-entitled action.

I hereby certify that I served:

1. RESPONSE IN OPPOSITION TO MOTION FOR FINGERPRINT EXEMPLARS;
to the following CM/ECF participants in this case:

David Leshner, efile.dkt.gc2@usdoj.gov.

There are no non-ECF participants on this case to be notified by United States Parcel Service.
I declare under penalty of perjury that the foregoing is true and correct

Date: July 14, 2008.

/s Lisa Kay Baughman
LISA KAY BAUGHMAN